

AUG 16 2002 #5
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

AUG 16 2002
APPLICANT: Daniel S. Sinclair, Jr.

DATE: August 8, 2002

SERIAL NO.: 10/083,671

GROUP ART UNIT: 1731

FILED: 26 February 2002

EXAMINER: Dionne Walls

FOR: "TOBACCO PRODUCT" ATTORNEY DOCKET NO. P01266US (98541.2P2)

DECLARATION UNDER 37 C.F.R. § 1.132

Commissioner of Patents
and Trademarks
Washington, D.C. 20231

Sir:

1. Attached are copies of my prior Rule 132 declarations, which were filed in two prior patent applications. I now provide additional information relating to inventions first claimed in the present application.
2. Flavored cigars, flavored pipe tobacco, and flavored chewing tobacco (snuff) have been sold for decades. Prior art flavored tobacco flat sheet products were first sold in the 1996, 1997 time frame by my company under the trademarks BLUNT WRAP and TOBACCO WRAP. A competitor sold a prior art flavored tobacco flat sheet product under the mark ROYAL BLUNTS at least as early as this 1996, 1997 time frame. Exhibits A1, A2 and A3 hereto show my flat sheet product (the actual product is attached). Exhibits B1, B2, B3, B4, B5 and B6 show the ROYAL BLUNTS flat sheet product (the actual products are attached). These flat sheet products were generally packaged flat and folded once or twice, usually about one to eight sheets per pack. The one to eight flat sheets were sealed in an opaque wrapper. The flat sheets were stacked, one upon the other in some cases. As I recall, available flavors of this prior art

flat sheet product included honey, amaretto and cognac. In packaging with multiple sheets, moisture control was provided by the close, face-to-face stacking wherein one sheet was in contact with the next sheet over substantially the entire surface area of the abutting, folded sheets.

3. The shaped cigar tubes or shells disclosed in my first two U.S. Patents 6,321,755 and 6,357,448 were first marketed in late (around September) 1999. At that time, I was selling a cigar tube or shell (as shown in Figures 3 and 8 (copies attached) of the present patent application) that was unfilled with tobacco filler material and packaged in a wrapper (as shown in Figure 26 (copy attached) of the present patent application).

4. In October of 2000, I began selling cigar tubes or shells that were flavored. These tubes or shells were packaged at that time in a wrapper and unfilled with a tobacco filler material.

5. When I introduced my original cigar tube or shell product in around September 1999, I experienced some problems. These problems related primarily to dryness, as some product would crack during use. When a consumer unrolled the tube to insert his or her custom tobacco filler material, some of the cigar shells or tubes would crack. Dryness caused the shell or tube to be brittle. There were a large number of customer returns during the years 1999 and 2000.

6. Because my product is tubular in shape, it cannot be contacted by another product next to it in the same wrapper as with flat, folded sheets, for moisture control. I found a solution to the dryness problem after much trial and error. I found that by adding flavor in the form of flavored moisturizing chemicals, the flavor was enhanced and the cracking problem eliminated. Especially successful was the combination of propylene glycol, alcohol, water and flavoring in the form of an extract. These chemicals were applied before packaging in the wrapper. As indicated in my declaration in my prior U.S. patent application serial number 09/944,979, sales of my product increased substantially shortly after introducing the flavored tubes

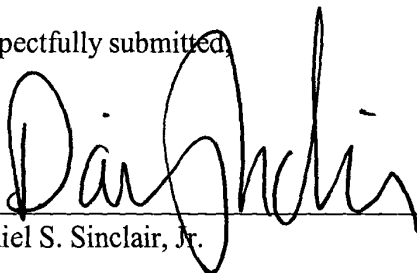
to the market.

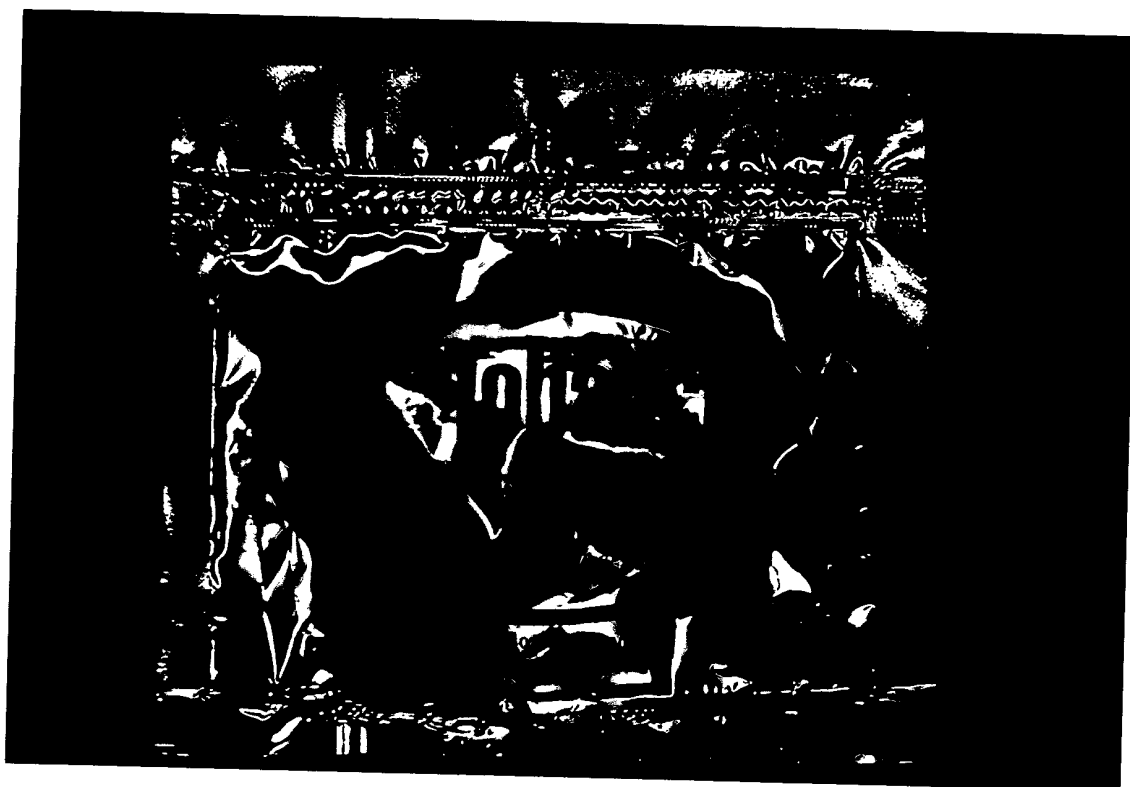
7. A number of companies are now copying not only my cigar tube or shell that is packaged empty or unfilled inside a wrapper, but are also copying my flavored tobacco tubes. The copying started around July 2001. Presently, at least the following companies have copied my flavored product by offering an unfilled or empty cigar tube or cigar shell that remains in a tube shape inside of a wrapper: ROYAL BLUNTS, MIAMI BLUNT/420, KARDEL BLUNT, and CARRIBEAN IMPORT AND EXPORT.

8. The undersigned hereby declares that all statements made of his own knowledge are true and that all statements made on information and belief are believed to be true, and that this statement is made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

8/8/02
Date

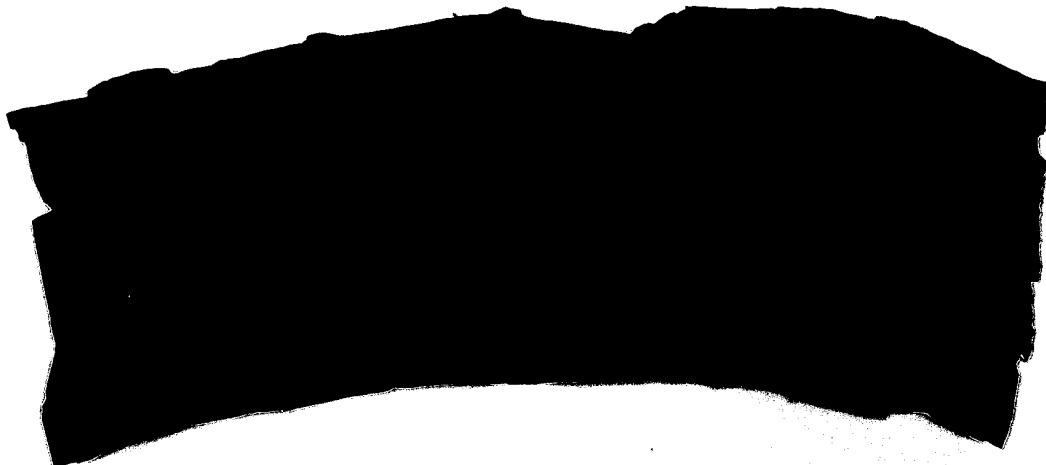
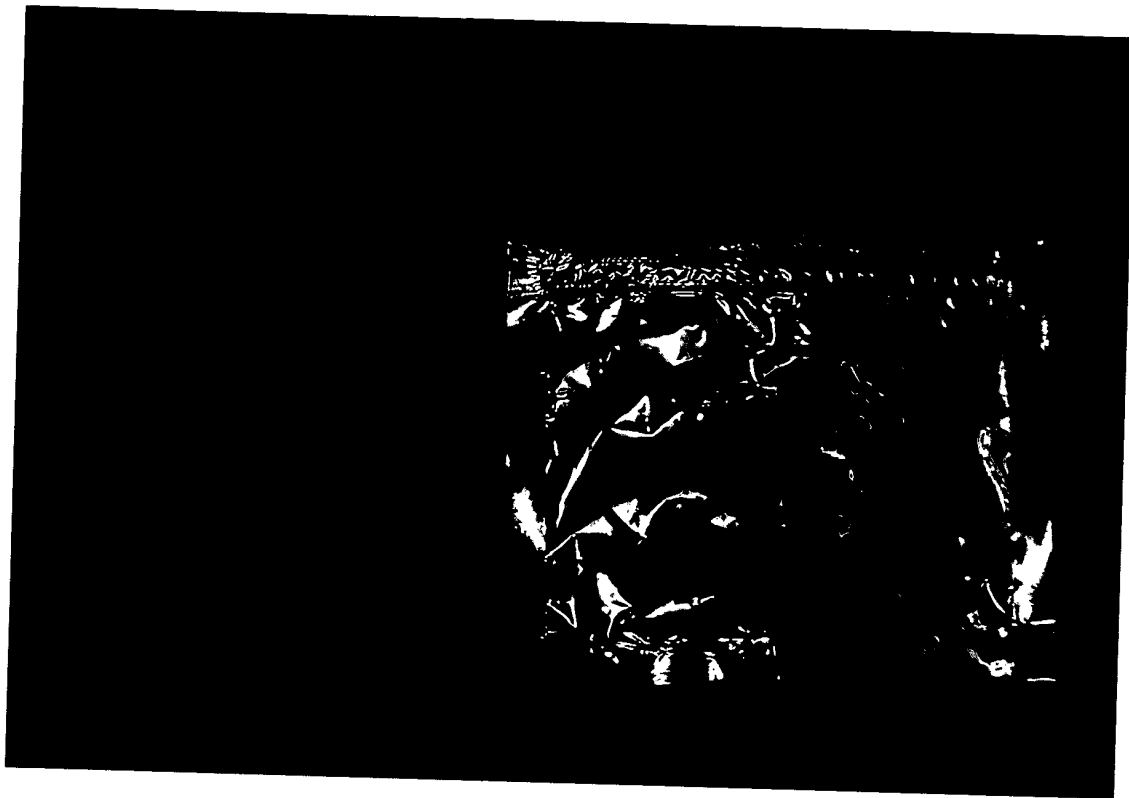
Respectfully submitted,


Daniel S. Sinclair, Jr.



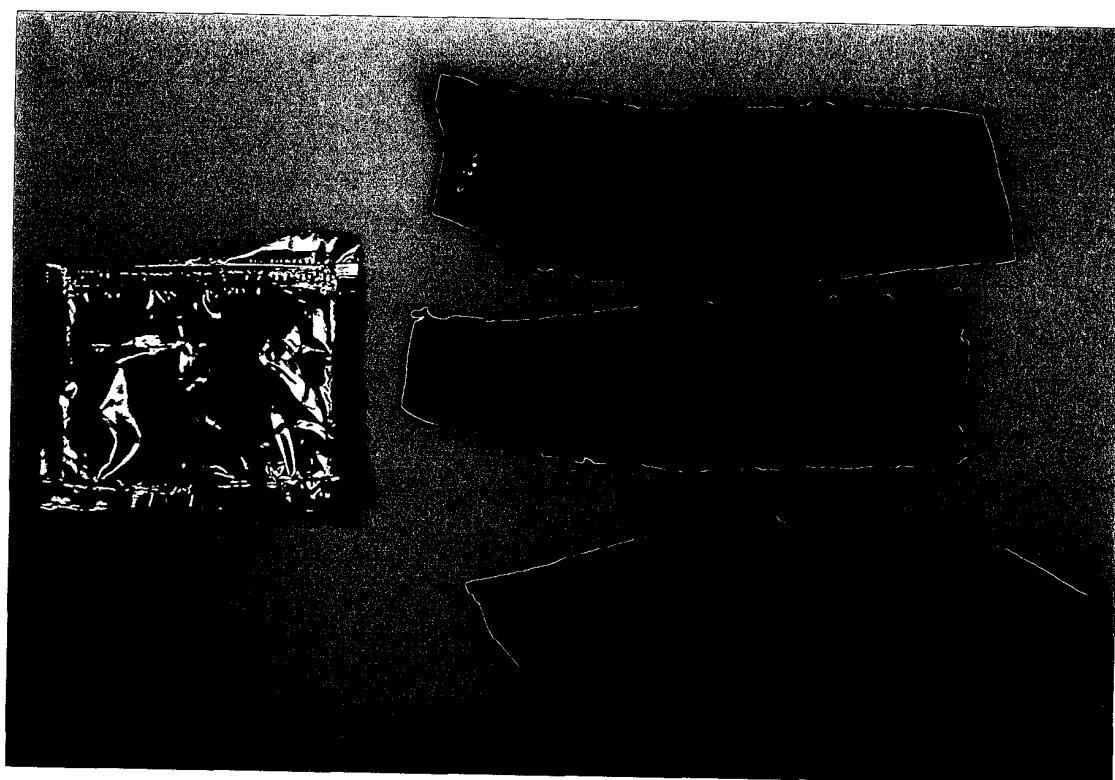
EXHIBIT

A1



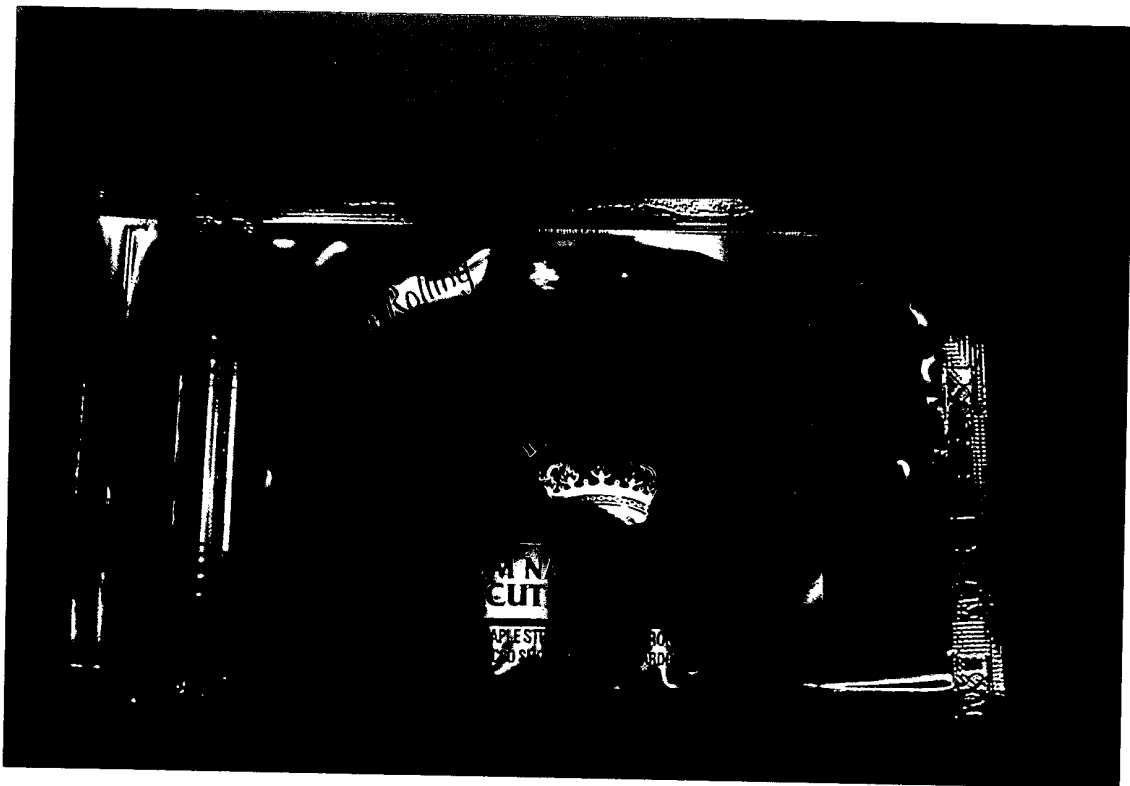
EXHIBIT

A2



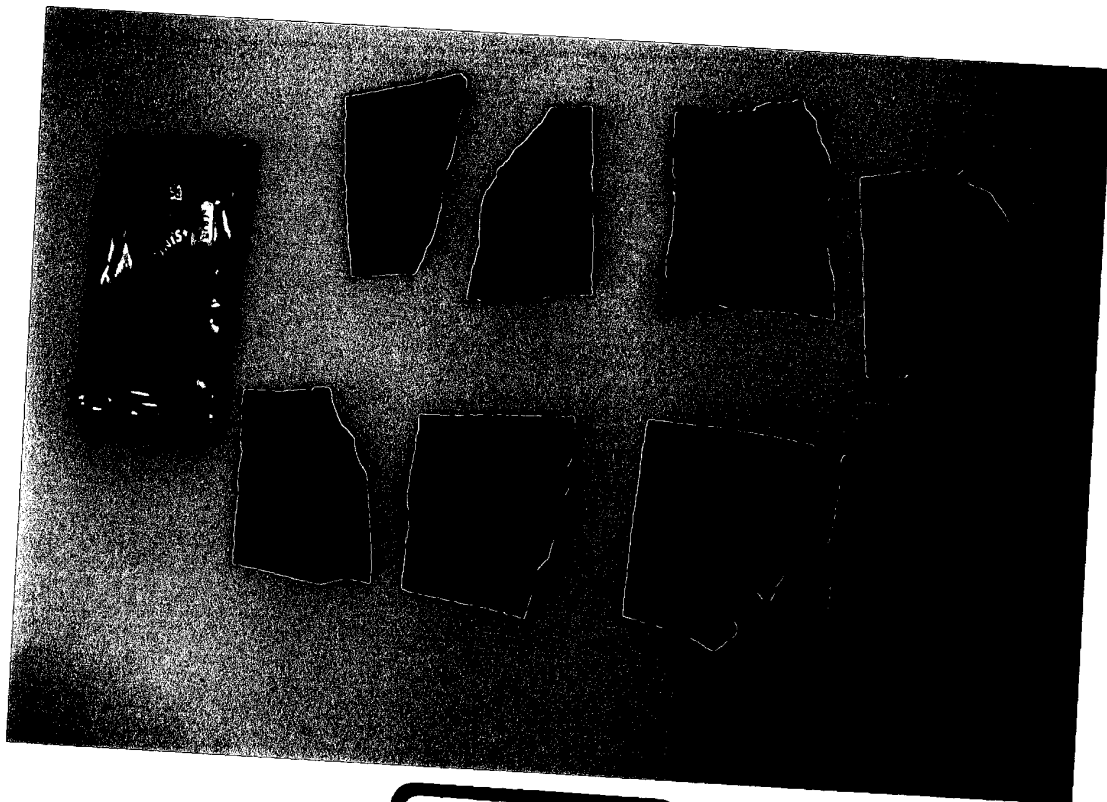
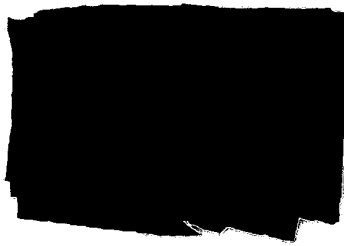
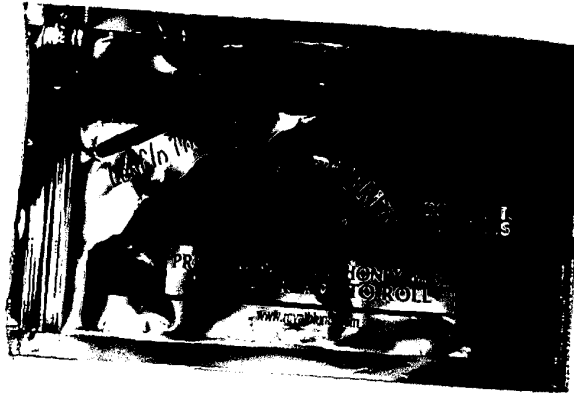
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A3



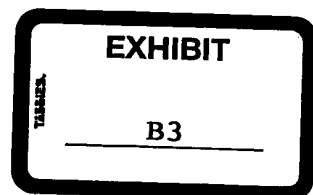
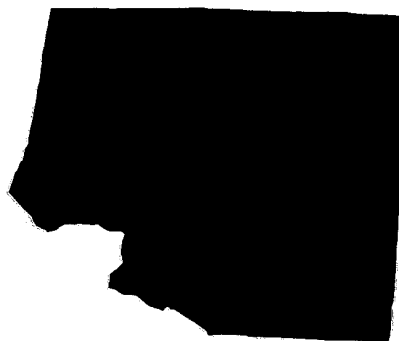
EXHIBIT

B1



EXHIBIT

B2

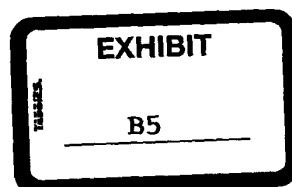
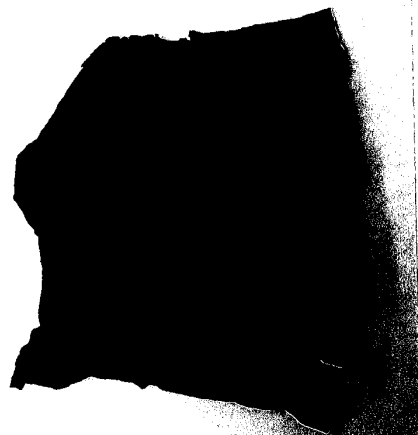
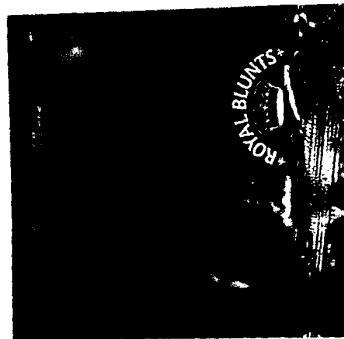
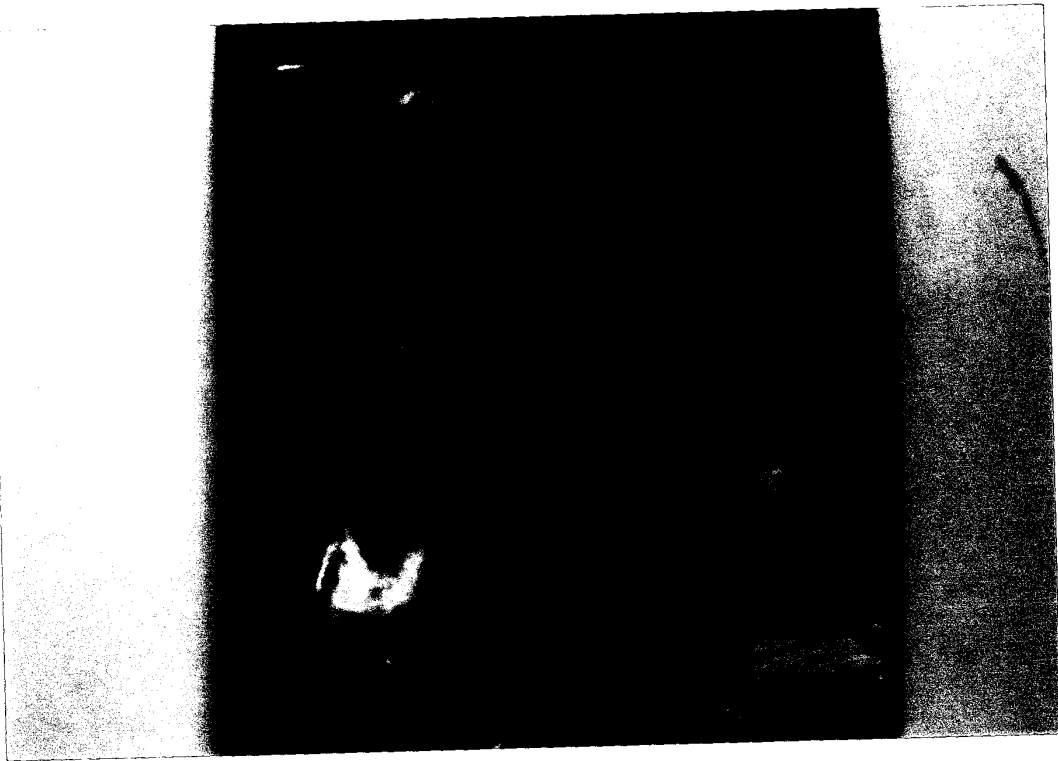


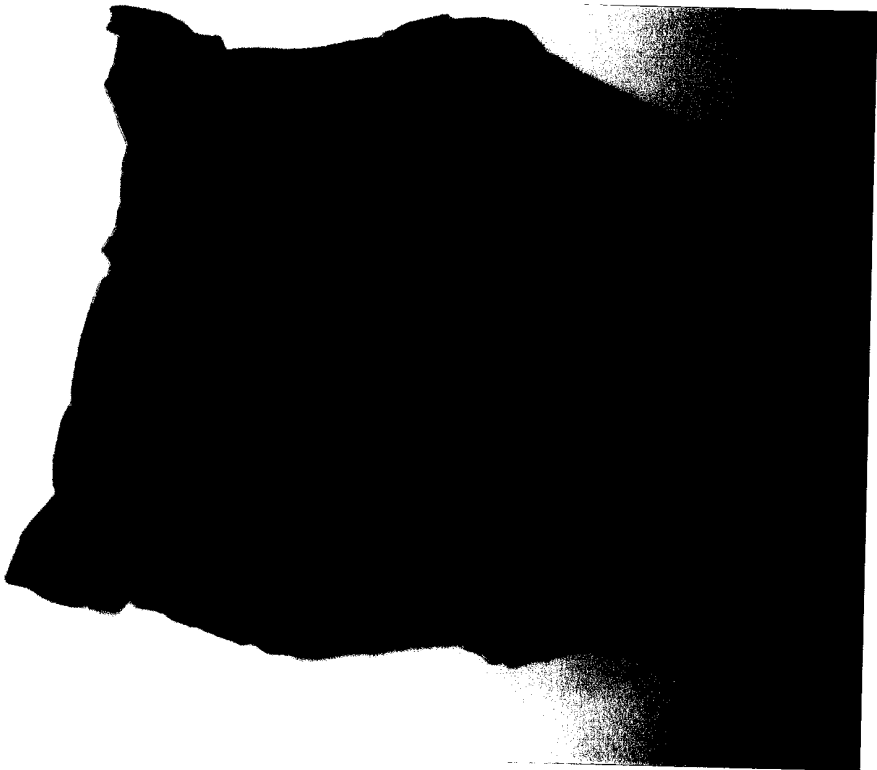


EXHIBIT

TABLER

B4





EXHIBIT

TABEX.

B6